

**Alaska Coastal Management Program  
Environmental Impact Statement  
Scoping Meeting**

**Testimony of Walter Porter  
Planning Director  
Northwest Arctic Borough**

**July 28, 2005  
Juneau, Alaska**

For the record, my name is Walter Porter, Planning Director for the Northwest Arctic Borough. I am testifying on behalf of the Northwest Arctic Borough with the consent of Mayor Roswell Schaeffer.

I wish to begin by expressing appreciation to the Office of Ocean and Coastal Resource Management for holding scoping meetings in Alaska for the proposed amendments to the Alaska Coastal Management Program (ACMP). The changes to the ACMP will have profound effects to Alaska's coastal districts, the resource and uses within those coastal districts and eventually to the people living in those districts.

In order to gain a complete understanding of the effects of the proposed amendment to the ACMP, all of the proposed changes must be looked at together. While some of the changes may not seem important in isolation, they would have significant effects to coastal uses or resources when combined with other changes.

My testimony today will focus on 7 matters that should be analyzed in-depth in the environmental impact statement (EIS): Subsistence, mining, oil and gas, air and water quality, habitat, local control and safeguards. Because the impacts of these changes will have cumulative effects and synergies, the cumulative impact analysis of the proposed changes should be comprehensive.

**Subsistence**

Subsistence use is extremely important in the Northwest Arctic Borough. The people of the region use marine mammals, fish, land-based mammals, birds, berries, and plants not only to put food on the table, but for cultural sustenance as well.

For over 25 years, the ACMP has provided Alaska's coastal districts and its subsistence users an important tool to work with government agencies and project applicants to ensure protection of subsistence resources and control of the socio-economic impacts on our human populations. There are few other tools for addressing project impacts to subsistence, and the EIS should include a thorough analysis of how the changes will affect subsistence uses and the associated resources. Specifically, the effects of changes to the statewide subsistence standard, the new requirements that districts may only establish policies for designated areas and the new

restrictions that will limit the ability of districts to establish subsistence policies should all be examined in the EIS.

### **Mining**

The Northwest Arctic Borough supports economic development, and we recognize that new development will be needed to employ our residents. At the same time, we also recognize the need for local coastal management tools to ensure development is compatible with subsistence and other resources and uses. Significant mineral deposits exist throughout the borough, and it is home to the largest lead-zinc mine in the world. The proposed changes would eliminate our most important tools for reducing coastal impacts from mining. First, the mining standard would be eliminated under the proposal and be replaced with a narrow standard that only addresses sand and gravel extraction in saltwater areas. Second, the elimination of the mining standard removes our ability to establish district enforceable policies for mining activities. These enforceable policies have been an important means to reduce impacts from mining, and without them, coastal resources and uses will have new impacts. The EIS should investigate this issue.

### **Oil and Gas**

There are no oil and gas development currently in the Northwest Arctic Borough, but just last week, the Anchorage Daily News published an article about renewed interest in oil and gas exploration in waters offshore of the borough in the Chukchi Sea. Although the proposed changes only include minor changes to the state Energy Facilities standard, new restrictions in establishing enforceable policies will significantly reduce the ability of coastal districts to address impacts of oil and gas activities.

One of the major problems with the proposed changes is the assertion by the Alaska Department of Natural Resources (DNR) that districts must designate an area as suitable for energy development before they can establish oil and gas enforceable policies. This raises two problems. First, the district does not have access to confidential industry information regarding the location of oil and gas resources. Second, the people of the region do not support offshore oil and gas development because of the potential for an oil spill to damage subsistence resources. It does not seem fair that we would be precluded from establishing policies for oil and gas development in marine waters, the area where an oil spill would have the most devastating consequences.

### **Air and Water Quality**

The 2003 legislation removed matters regulated by the Department of Environmental Conservation (DEC) from the consistency review process. DNR interprets this legislation to mean that districts cannot establish any air or water quality policies, even for matters not regulated by DEC. In fact, DEC has commented on our draft plan that we cannot use the term "environment" because it could be interpreted as including air and water quality.

The concept of separating out different aspects of the environment is foreign to the people of the region. Air and water quality is so closely connected to other resources and uses that we cannot



adequately address effects to habitat, fish and wildlife or subsistence without looking at air and water quality at the same time.

As an example, under the proposed changes, when we review an offshore oil and gas project, we will not be able to comment on the effects of an oil spill because it is a matter regulated by DNR. For Outer Continental Shelf (OCS) projects, there would be no public forum to discuss air and water quality during the consistency review because the DEC has no authority to issue permits for OCS activities. The "DEC carve-out" has profound implications that should be evaluated in the EIS.

### **Habitat**

The changes to the state Habitats standard and new restrictions to district enforceable policies will likely result in significant degradation to habitat in Alaska. The state Office of Habitat Management and Permitting does not have adequate resources because they only have two statutes limited to anadromous fish streams and impoundments of water. The statewide habitats standard has provided an important forum to reduce impacts to habitat from development projects. Specifically, the three-part test in the current standard has been instrumental in negotiating project changes with applicants. This provision has been eliminated along with the requirement that applicants must meet the three-part test if the project does not maintain or enhance habitats.

DNR now interprets part (b) of the standard to provide the only management measures for consideration during consistency reviews. Although management measures have always been outlined in the habitat standard, the state has never interpreted this standard to limit consideration of measures to what is outlined in the standard. The proposed new Habitats standard would eliminate almost all references to living resources, so the only management measures that could be considered during a consistency review would not relate directly to fish and wildlife.

New restrictions on establishment of enforceable policies require establishment of important habitat areas before a district can establish an enforceable policy. DNR has stated that it believes it will be difficult for districts to meet the new standards for establishment of important habitat areas. Even when a district is able to establish an important habitat area, DNR has stated that district will be limited to "allowing or disallowing" a use. This new restriction will remove our ability to negotiate with applicants to find a solution to activities that could affect habitats.

### **Local Control**

The changes to the ACMP have removed many provisions for local involvement in coastal decisions. The elimination of the Coastal Policy Council removed an important role for districts in establishment of coastal policy and in approving district program changes. In addition, the DNR has stated that there will no longer be district representation on the ACMP Working Group. As mentioned previously, new restrictions on enforceable policies will have a significant effect on a district's ability to management coastal uses and resources. These changes will have greater impacts on coastal resources and uses.

### **Removal of Safeguards**

Many safeguards present in the former program have been removed. Transference of the Habitat Division and the ACMP to the DNR and abolishment of the Coastal Policy Council will limit the input of the other resources agencies. In addition, citizen lawsuits are no longer possible for ACMP consistency review decisions. These combinations of these changes will significantly affect the ability of the state to ensure there is a balance between development and protection of coastal resources and uses. The EIS must include a thorough analysis of effects of these changes.

### **Closing Remarks**

In closing, the Northwest Arctic Borough is very concerned about the effects of the proposed changes to the ACMP and the potential environmental effects of these changes. There is much uncertainty about the effects of these changes. For example, I haven't yet met anyone who seems to fully understand the changes to the ACMP, especially in regard to the new requirement for enforceable policies. To gain a complete understanding of the proposed changes, the EIS team should complete a full analysis of the comments by the state on the Public Hearing Drafts of the district plans. After reading the comments on our plan, I do not see how we could develop any meaningful policies. The lack of district policies will certainly have an adverse effect on coastal resources and uses.

My testimony has only addressed a few major issues. Certainly there are many other issues that should be discussed in the EIS. At a minimum, the new EIS should compare the proposed changes to what was analyzed in the original EIS for the ACMP.

The Northwest Arctic Borough looks forward to working with OCRM during development of the EIS, and it encourages OCRM to develop a plan for meaningful government-to-government consultation with Alaska tribes.

Again, thank you for the opportunity to testify at this scoping meeting.



**Subject:** Comments Alaska Coastal Management Program

**From:** "Steve Sumida" <deputy@alaskaintertribal.org>

**Date:** Wed, 13 Jul 2005 13:39:46 -0800

**To:** <helen.bass@noaa.gov>

**CC:** "AITC" <aitc@alaskaintertribal.org>, "Anne Jourdan" <ajourdan@alaskaintertribal.org>, "Ian Erlich" <ierlich@maniilaq.org>, "Mike Williams" <mwilliams19522004@yahoo.com>

July 12, 2005

Helen Bass

Environmental Protection Specialist

Coastal Programs Division

Office of Ocean and Coastal Resource Management

National Ocean Service

SSMC4, N/ORM3, Room 11207

1305 East West Highway

Silver Spring, MD 20910

Submitted by email: [helen.bass@noaa.gov](mailto:helen.bass@noaa.gov)

Dear Ms. Bass:

The Alaska Inter-Tribal Council submits these initial comments on scoping for the environmental impact statement (EIS) for the proposed approval of amendments to the Alaska Coastal Management Program (ACMP). We are extremely concerned about the social, cultural and environmental effects of the proposed changes on Alaska Native people, especially changes that will affect subsistence uses and resources, habitat and air and water quality.

The Alaska Inter-Tribal Council appreciates the fact that the Office of Ocean and Coastal Resource Management (OCRM) is holding three scoping meetings in Alaska. We are disappointed, however, that there does not appear to have been any effort by OCRM to meet the intent of executive orders on environmental justice (EO 12898) or government-to-government consultation (EO 13175) during the scoping process.

While we have not had an opportunity to do an in-depth analysis of the effects of the ACMP, it appears that these changes will profoundly affect the Native people of Alaska. The changes to the ACMP have a disproportionately high adverse impact to Native people because of their dependence on subsistence uses and resources, clean air and water and healthy habitats.

The scope of the EIS should include a comprehensive examination of the effects of each change. At a minimum, the EIS should analyze the environmental and social effects of the following changes to Native people and low income residents of rural Alaska. The analysis should include cumulative effects from all the changes.

- Elimination of the Coastal Policy Council.

- Removal of activities regulated by the Alaska Department of Environmental Conservation from coordinated consistency reviews, including the fact that these activities are only reviewed for compliance with the air, land and water quality standard (i.e., they will no longer be reviewed for consistency with the other statewide standards or local coastal district enforceable policies).
- Weakening of provisions in the statewide subsistence standard.
- Reducing the effectiveness of the statewide habitats standard and limiting habitat considerations in the ACMP to specific management measures outlined in part (b) of the statewide standard.
- Elimination of the statewide standard on mining, other than gravel extraction in coastal waters.
- Transference of the Division of Habitat and the ACMP to the Alaska Department of Natural Resources.
- New limitations on the ability for coastal districts to establish enforceable policies, especially policies related to subsistence, air and water quality, and habitats.
- Inability for coastal districts to establish policies on energy facilities without designating an area as suitable for energy development.
- Inability for coastal districts to address activities on federal lands and water, including the Outer Continental Shelf.
- Fewer projects will undergo ACMP reviews in the future when the "ABC list" of expedited reviews is amended as directed by the legislation.

The Alaska Inter-Tribal Council recommends that the scoping process be extended to allow OCRM to develop an effective public involvement strategy that reflects commitments made in executive orders 12898 and 13175 regarding environmental justice and government-to-government consultation with sovereign federally recognized tribal governments through their traditional and IRA councils. Few rural residents read the Federal Register, and rather than limiting publication of meeting notices and opportunities to comment to the Federal Register, local newspaper ads and public service announcements on local radio stations should be considered. Because many rural Alaska Natives, especially elders, do not speak English as a first language, the strategy should include provisions to translate crucial documents and public comments at meetings. Also, because many rural residents are living below the poverty level, the strategy should include methods to make public meetings more accessible.

The June 2, 2005 description of the ACMP submitted to your office by the State of Alaska is extremely confusing, especially the description of new requirements for coastal district enforceable policies. This document is full of jargon and vague concepts not easily understood by the average Alaskan. It is imperative that the EIS include clear and understandable discussions about the effects of the proposed changes to the ACMP.

The Alaska Inter-Tribal Council appreciates this opportunity to provide initial comments on scoping for the ACMP EIS. Please contact Steve Sumida, Acting Executive Director, Alaska Inter-Tribal Council, 750 West 2<sup>nd</sup> Avenue, Suite 215, Anchorage, AK 99501, direct 907-264-4802, main 907-563-9334, fax 907-563-9337, email [aitc@alaskaintertribal.org](mailto:aitc@alaskaintertribal.org) or [ssumida@alaskaintertribal.org](mailto:ssumida@alaskaintertribal.org) if you have any questions about this letter.

Sincerely,

By Steven E. Sumida, Acting Executive Director, *for*

Ian Erlich, Chair

Alaska Inter-Tribal Council

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ALASKA COASTAL MANAGEMENT PROGRAM

EIS SCOPING MEETING

July 28, 2005  
8:00 a.m.

Juneau, Alaska  
Centennial Hall

Recorded and transcribed by:

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3522 West 27th Avenue  
Anchorage, AK 99517  
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P R O C E E D I N G S

(On record - 8:27 a.m.)

3 MR. SMITH: My name is Odin Smith, I'm  
4 with NOAA General Counsel. And I'm here with Masi  
5 Okasaki from NOAA's Office of Ocean and Coastal Resource  
6 Management. And I'll try to keep this brief before my  
7 voice tries to give out.

8 We're here basically conducting public  
9 scoping meetings for the proposed amendments to the  
10 Alaska Coastal Management Program, and -- you probably  
11 need -- I'm just going to go ahead and give you a short  
12 overview of our review process, and then I guess if we  
13 have anybody who wants to speak, we'll let them do so.

14 Basically the environmental review  
15 process that we're starting with these scoping meetings  
16 is under the National Environmental Policy Act which  
17 basically requires that for every major federal action  
18 affecting the quality of the human environment, the  
19 federal agency has to go through a review process, look  
20 at the environmental impacts of the action, any adverse  
21 impacts that can't be avoided, alternatives to the  
22 proposed action, the relationship between the short-term  
23 uses and long-term productivity, and any irreversible or  
24 irretrievable commitment of resources that would be  
25 entailed.



1                   The program amendment basically consists  
2 of two statutory changes and three regulatory changes,  
3 and these are -- well, they're upon the web site. I'll  
4 bring up that address.

5                   Basically the scoping that we're looking  
6 for is just an opportunity for the interested public to  
7 let us know what sort of concerns they have, what sort of  
8 issues they'd like to see addressed in the environmental  
9 impact statement, and also any comments on suggested  
10 alternatives. Basically the two alternatives that we  
11 have before us are basically either to approve the  
12 amendments or not to approve them.

13                  And the outline of the EIS is going to be  
14 basically an executive summary, introduction with  
15 discussion of public scoping and public involvement, and  
16 a purpose and needs section, and a description of  
17 alternatives, description of the program change,  
18 description of the environment affect, including physical  
19 and socio-economic, the impacts of the alternatives, and  
20 then finally a list of agencies and persons consulted,  
21 index and appendices.

22                  Our schedule is this week we're  
23 conducting scoping meetings. We just had them earlier  
24 this week in Barrow and Anchorage. We will be accepting  
25 written comments until August 5th, and we encourage

1 people to send those in. August 26th we're going to  
2 issue the draft environmental impact statement for a 45-  
3 day review period, public comment period. We're going to  
4 be holding public meetings in September on that draft  
5 environmental impact statement, and then the comment  
6 period will end on October 10th, and then we're going to  
7 issue the final environmental impact statement for 30  
8 days on November 19th, looking to adopt the EIS on  
9 December 19th, and then finally to issue our record of  
10 decision and the program amendment decision on December  
11 28th.

12 Our point of contact is Helen Bass who  
13 works at NOAA. She unfortunately couldn't be here today,  
14 although she did want to be here, and you can mail  
15 comments to her or send them by email. Her email address  
16 is up there. And then finally there's the Alaska program  
17 change document web site address.

18 So if we have anybody who'd like to  
19 speak, I'll turn over the floor to them.

20 MS. OKASAKI: We have one. Walter is the  
21 only one who wants to speak.

22 REPORTER: If you'd like to sit at the  
23 table, I can move.....

24 MR. PORTER: Oh, sure. That would be  
25 great.

1                   REPORTER:   .....the mic there.

2                   MR. PORTER:  First off, I'm glad there's

3 room for me here.  What kind of a turn-out did you have

4 in Anchorage?

5                   MR. SMITH:  We had about five people

6 speak, and about.....

7                   MS. OKASAKI:  Nine or 10 people show up.

8                   MR. PORTER:  Oh, I see.

9                   MR. SMITH:  And Barrow's about the same.

10                  MS. OKASAKI:  Right.

11                  REPORTER:  Walter.....

12                  MR. PORTER:  Yes?

13                  REPORTER:  .....is it okay if I get you

14 to move to the microphone?

15                  MR. PORTER:  Oh, not a problem.  First

16 off I'd like to say I appreciate being here.  For the

17 record, my name is Walter Porter, Planning Director for

18 the Northwest Arctic Borough, and I'm testifying on

19 behalf of the Northwest Arctic Borough with the consent

20 of Mayor Roswell Schaeffer.

21                  And you're probably wondering what I'm

22 doing so far away from home, and I have other business

23 here in Juneau, and I'm also from this area, so -- I've

24 been gone for about seven years, so any time I get a

25 chance to squeeze a trip down this far, I do it.  So.....



1 I wish to begin by expressing my  
2 appreciation to the Office of Ocean and Coastal Resources  
3 Management for holding scoping meetings in Alaska for the  
4 proposed amendments to the Alaska Coastal Management  
5 Program. The changes to the ACMP will have profound  
6 effects to the Alaska coastal districts, the resources  
7 and the uses within those coastal districts, and  
8 eventually to the people living in those districts.

9 In order to gain a complete understanding  
10 of the effects of the proposed amendment to the ACMP, all  
11 of the proposed changes must be looked at altogether.  
12 While some of the changes may not seem important in  
13 isolation, they would have significant effects to coastal  
14 uses and resources when combined with other changes.

15 My testimony today will focus on seven  
16 matters that should be analyzed in-depth in the  
17 environmental impact statement: subsistence, mining, oil  
18 and gas, air and water quality, habitat, local control  
19 and safeguards. Because the impacts of these changes  
20 will have cumulative effects and synergies, the  
21 cumulative impact analysis of the proposed changes should  
22 be comprehensive.

23 Subsistence. Subsistence use is  
24 extremely important to the Northwest Arctic Borough. The  
25 people of the region use marine mammals, fish, land-based

1 mammals, birds, berries, and plants not only to put food  
2 on the table, but for cultural sustenance as well.

3                   For over 25 years the ACMP has provided  
4 Alaska's coastal districts and its subsistence users an  
5 important tool to work with government agencies and  
6 project applicants to ensure protection of the  
7 subsistence resources and control of the socio-economic  
8 impacts on our human populations. There are few other  
9 tools for addressing project impacts to subsistence, and  
10 the EIS should include a thorough analysis of how the  
11 changes will affect subsistence uses and the associated  
12 resources. Specifically, the effects of changes to the  
13 statewide subsistence standard, the new requirements that  
14 districts may only establish policies for designated  
15 areas and the new restrictions that will limit the  
16 ability of districts to establish subsistence policies  
17 should all be examined in the EIS.

18                   Mining. The Northwest Arctic Borough  
19 supports economic development, and we recognize that new  
20 development will be needed to employ our residents. At  
21 the same time, we also recognize the need for local  
22 coastal management tools to ensure development is  
23 compatible with subsistence and other resources and uses.  
24 Significant mineral deposits exist throughout the  
25 borough, and it is the home of the largest lead-zinc mine

1 in the world. The proposed changes would eliminate our  
2 most important tools for reducing coastal impacts from  
3 mining. First, the mining standard would be eliminated  
4 under the proposal and be replaced with a narrow standard  
5 that only addresses sand and gravel extraction in  
6 saltwater areas. Second, the elimination of the mining  
7 standard removes our ability to establish district  
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9 enforceable policies have been an important means to  
10 reduce impacts from mining, and without them, coastal  
11 resources and uses will have new impacts. The EIS should  
12 investigate this issue.

13 Oil and gas. There are no oil and gas  
14 development currently in the Northwest Arctic Borough,  
15 but just last week the Anchorage Daily News published an  
16 article about renewed interest in oil and gas exploration  
17 in waters offshore of the borough in the Chukchi Sea.  
18 Although the proposed changes only include minor changes  
19 to the state energy facilities standard, new restrictions  
20 in establishing enforceable policies will significantly  
21 reduce the ability of coastal districts to address  
22 impacts of oil and gas activities.

23 One of the major problems with the  
24 proposed changes is the assertion by the Alaska  
25 Department of Natural resources that districts must



1 designate an area as suitable for energy development  
2 before they can establish oil and gas enforceable  
3 policies. This raises two problems. First, the district  
4 does not have access to confidential industrial  
5 information regarding the location of oil and gas  
6 resources. Second, the people of the region do not  
7 support offshore oil and gas development because of the  
8 potential for an oil spill to damage subsistence  
9 resources. It does not seem fair that we would be  
10 precluded from establishing policies for oil and gas  
11 development in marine waters, the area where an oil spill  
12 would have the most devastating consequences.

13                   Oil (sic) and water quality. The 2003  
14 legislation removed matters regulated to the Department  
15 of Environmental Conservation from the consistency review  
16 process. The DNR interprets this legislation to mean  
17 that districts cannot establish any air or water quality  
18 policies, even for matters not regulated by DEC. In  
19 fact, DEC has commented on our draft plan that we cannot  
20 use the term environment because it could be interpreted  
21 as including air and water quality.

22                   The concept of separating out different  
23 aspects of the environment is foreign to the people of  
24 the region. Air and water quality is so closely  
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1 adequately address effects to habitat, fish and wildlife  
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4                   As an example, under the proposed  
5 changes, when we review an offshore oil and gas project,  
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12 out has profound implications that should be evaluated in  
13 the EIS.

14                   The changes to the state habitats  
15 standards, and new restrictions to district enforceable  
16 policies will likely result in significant degradation to  
17 habitat in Alaska. The state Office of Habitat  
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10 outlined in the standard. The proposed new habitats  
11 would eliminate almost all reference to living resources,  
12 so the only management measures that could be considered  
13 a consistency review would not relate directly to fish  
14 and wildlife.

15 New restrictions on the establishment of  
16 enforceable policies require establishment of important  
17 habitat areas before a district can establish an  
18 enforceable policy. DNR has stated that it believes it  
19 will be difficult for districts, excuse me, to meet the  
20 new standards for establishment of important habitat  
21 areas. Even when a district is able to establish an  
22 important habitat area, DNR has stated that districts  
23 will be limited to, quote, allowing or disallowing,  
24 unquote, a use. This new restriction will remove our  
25 ability to negotiate with applicants to find a solution



1 to activities that could affect habitats.

2                   Local control. The changes to the ACMP  
3 have removed many provisions for local involvement in  
4 coastal decisions. The elimination of the Coastal Policy  
5 Council removed an important role for districts in  
6 establishing of coastal policy and in approving district  
7 program changes. In addition, the DNR has stated that  
8 they (sic) will no longer be district representation on  
9 the ACMP Working Group. As mentioned previously, new  
10 restrictions on enforceable policies will have a  
11 significant effect on a district's ability to management  
12 -- to manage coastal uses and resources. This change  
13 will have greater impacts on coastal resources and uses.

14                   Removal of safeguards. Many safeguards  
15 present in the former program have been removed.  
16 Transference of the Habitat Division and the ACMP to the  
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18 limit the input of other resource agencies. In addition,  
19 citizen lawsuits are no longer possible for ACMP  
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21 combinations of these changes will significantly affect  
22 the ability of the state to ensure that there is a  
23 balance between development and protection of the coastal  
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25 analysis of effects of these changes.

1                   In closing, the Northwest Arctic Borough  
2 is very concerned about the effects of the proposed  
3 changes to the ACMP and the potential environmental  
4 effects of these changes. There is much uncertainty  
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9 complete understanding of the proposed changes, the EIS  
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11 the state on the public hearing drafts of the district  
12 plans. After reading the comments on our plan, I do not  
13 see how we could develop any meaningful policies. The  
14 lack of district policies will certainly have an adverse  
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16                   My testimony has only addressed a few  
17 major issues. Certainly there are many issues that  
18 should be discussed in the EIS. At a minimum, the new  
19 EIS should compare the proposed changes to what was  
20 analyzed in the original EIS for the ACMP.

21                   The Northwest Arctic Borough looks  
22 forward to working with OCRM during development of the  
23 EIS, and it encourages OCRM to develop a plan meaningful  
24 for government-to-government consultation with Alaska  
25 tribes.

1                   That deserves a couple more comments. As  
2 you know, most of our communities, even including Juneau,  
3 Sitka, Ketchikan, and major areas, major cities in Alaska  
4 originally were tribal communities, and if you look at  
5 the history of this particular area in Juneau here,  
6 there's actually several communities, native communities  
7 in this area. And certainly it's interesting in the last  
8 few years to see the impact of tribal activity. Since  
9 ANCSA it's stepped up somewhat. Even though it's  
10 different from ANCSA, we see more and more government-to-  
11 government activity with tribes, and especially the state  
12 government.

13                   Northwest Arctic Borough has officially  
14 recognized all the tribes in its area when Chuck Green  
15 was the borough mayor up there, and likewise to Roswell  
16 Schaeffer who is the present mayor in that region. So we  
17 -- much of our activity, even though we're not directly  
18 responsible for tribes, is interacting with and around  
19 tribal communities in our area.

20                   So anyway, again, thank you for allowing  
21 me to speak here today, and I'll be glad to entertain  
22 questions if I'm able. A lot of this is very complex,  
23 and some of you know normally if we would do something  
24 like this, it would be over several years. This has been  
25 quite quick for all of us. I'm about 15 or 16 months on



1 this new job, so learning all this material has been  
2 sometimes difficult, and the learning curve has been big  
3 and wide, so -- but anyway, I'll give any attempt to  
4 answer any questions. And I'll send a copy of this to  
5 Helen, so.....

6 MS. OKASAKI: Thank you. Thank you.

7 MR. SMITH: Can I have a copy of that,  
8 Walter, while.....

9 MR. PORTER: Oh, yeah, sure. I brought  
10 two just for that.

11 MR. SMITH: Oh, cool.

12 MS. OKASAKI: You just came in, I don't  
13 know if you wanted to talk?

14 UNIDENTIFIED VOICE: No, I'm here just  
15 here to listen.

16 MS. OKASAKI: Okay. Hopefully there's --  
17 that's it that wanted to testify, so.....

18 REPORTER: Oh, you're a good man. Thank  
19 you.

20 MS. OKASAKI: .....if you see anybody or  
21 know of anyone, let them know we will be here until 5:00.  
22 So I guess that's it.

23 (Off record - 8:47 a.m.)

24 (On record - 10:56 a.m.)

25 MR. SMITH: You're on.

1 MS. CAMERY: I'm on. Okay. I'm Teri  
2 Camery. I'm the planner and coastal district coordinator  
3 for the City and Borough of Juneau. I've been part of  
4 the coastal management program for four years now. I am  
5 just going to try to summarize the written comments that  
6 we mailed to OCRM a couple days ago here.

7 I guess in general our biggest concerns  
8 are the loss of local policies. The state's program  
9 changes have seriously limited the policies that local  
10 districts can implement, and they've done that in a  
11 number of ways, by eliminating the subjects that can be  
12 addressed, by prohibiting uses of terms such as avoid,  
13 minimize, mitigate, but setting a very, very high  
14 standard for any habitat related policies. To the best  
15 of our knowledge, there's no coastal district that has  
16 yet figured out how to implement a habitat policy,  
17 because the regulations are very, very strict in that  
18 regard. So we have very strong concerns about the impact  
19 of that. It leads to a much reduced local role in the  
20 program. It leads to less habitat protection.

21 I think one thing that's very unique  
22 about Alaska is that every district has its own specific  
23 set of concerns, and therefore statewide standards can no  
24 way address the individual situations of local  
25 communities. So it's critically important to retain a

1 strong local voice, and that has been seriously impacted  
2 by these changes.

3                   Specifically, one of our biggest concerns  
4 has always been retaining the Juneau wetland management  
5 plan. We are losing that program, that part of our  
6 coastal management program under these changes, because  
7 the state forbids the use of avoid, minimize, mitigate.  
8 The Juneau wetland management plan was established in  
9 1992, is based on a decade of scientific research, and  
10 it's very prescriptive, very specific. And it was  
11 actually designed to expedite development on low value  
12 wetlands. So it should be exactly the type of program  
13 that the state wants to retain with their goal of  
14 streamline and making the process more predictable, and  
15 yet that has been eliminated under this program.

16                   We're concerned about the loss of the  
17 Coastal Policy Council, and replacing the authority of  
18 that council with the DNR commissioner. We feel like the  
19 entire authority of the program has been consolidated  
20 into one agency, which is very dangerous just from a  
21 democratic perspective. Again, we've lost our local  
22 voice on that board that we formally had through the  
23 Coastal Policy Council. That council provided a certain  
24 amount of, you know, checks and balances and protecting  
25 the public interest. And we have lost that.



1                   We're concerned about the separation of  
2 DEC from the process. We feel like that opens the door  
3 to phasing, separating certain elements of projects out  
4 from the review. It's very difficult to conduct an  
5 adequate habitat review when you can't look at air and  
6 water quality. Air and water quality is an essential  
7 component of any habitat review. So that's another one  
8 of our major.

9                   And I guess overall I have to express a  
10 great deal of frustration with this process in the past  
11 two to three years here. The City and Borough of Juneau  
12 has been expressing our concerns about these program  
13 changes since the passage of the first bill, H.B. 191  
14 back in 2003. And the districts formed the Alaska  
15 Coastal District Association to state our opposition to  
16 these policies. We voiced our concerns over and over and  
17 over again to the state and to OCRM, and there have been  
18 -- there's been virtually no response to our concerns.  
19 There have been no changes to the regulations.

20                  Specific to the Juneau wetland management  
21 plan, we brought that up on day 1 that this was an  
22 important element to retain, and the state has made no  
23 changes. In fact, the state's habitat policies have  
24 become ever stricter in terms of what local districts can  
25 do.

1                   In the testimony on H.B. 191, districts  
2 were promised a broad role, and that has been steadily  
3 reduced.

4                   So it's been a frustrating process, and  
5 we've also seen the public process get steadily eroded  
6 through this. We formerly had an ACMP working group.  
7 That was dismantled throughout this review. So -- that  
8 was initially set up so districts could have a -- could  
9 be intregantly (ph) involved in the crafting of the  
10 regulations, and that was dismantled. So we do not feel  
11 that our concerns have been either heard or addressed.

12                   I think that probably summarizes my  
13 comments.

14

15                   (Off record - 11:02 a.m.)

16                   (END OF PROCEEDINGS)

C E R T I F I C A T E

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2

3 UNITED STATES OF AMERICA)

4 )ss.

5 STATE OF ALASKA )

6

7 I, Joseph P. Kolasinski, Notary Public in and for  
8 the state of Alaska, and reporter for Computer Matrix  
9 Court Reporters, LLC, do hereby certify:

10 THAT the foregoing EIS Scoping Meeting on the Alaska  
11 Coastal Management Plan was electronically recorded by  
12 Computer Matrix Court Reporters, LLC on the 28th day of  
13 July 2005, commencing at Centennial Hall in Juneau,  
14 Alaska;

15 That this hearing was recorded electronically and  
16 thereafter transcribed under my direction and reduced to  
17 print;

18 IN WITNESS WHEREOF, I have hereunto set my hand and  
19 affixed my seal this 10th day of August 2005.

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Joseph P. Kolasinski  
Notary Public in and for Alaska  
My Commission Expires: 3/12/08



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ALASKA COASTAL MANAGEMENT PROGRAM

EIS SCOPING MEETING

July 27, 2005  
8:00 a.m.

Egan Center  
Anchorage, Alaska

Recorded and transcribed by:

Computer Matrix Court Reporters, LLC  
3522 West 27th Avenue  
Anchorage, AK 99517  
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1 PROCEEDINGS

2 MR. SMITH: Well, good morning,  
3 everybody. Thank you for coming. We're off to a  
4 little bit of a slow start this morning. We were  
5 hoping to get a few more people showing up today. My  
6 name is Odin Smith, I'm NOAA's general counsel, and I'm  
7 here with Masi Okasaki, who's also from NOAA, Office of  
8 Ocean and Coastal Resource Management.

9 And we're here basically to elicit  
10 public input on our review process as we review the  
11 proposed amendments to the Alaska Coastal Management  
12 Program. I'm just going to give a little brief  
13 overview of our review process, and then we'll go ahead  
14 and get started with people who want to speak, give  
15 comments on the proposed amendments. I guess when you  
16 come up to speak, we're hoping to get a lot more  
17 people, so we'd like you, you know, if you could, keep  
18 your comments brief, about five minutes or so. And if  
19 you're going over and there are people waiting, we'll  
20 let you know.

21 Also, there are some state DNR people  
22 here who will be taking some pictures. If you don't  
23 want your picture taken, just let me know so when you  
24 come up to the microphone, and I'll refrain from taking  
25 pictures.

1                   Basically we're starting an  
2 environmental impact review process mandated under the  
3 National Environmental Policy Act. Basically any major  
4 federal actions significantly affecting the quality of  
5 the human environment requires a review process to  
6 examine the environmental impacts, the adverse impacts  
7 which cannot be avoided, alternatives to proposed  
8 action, relationship between short-term uses and long-  
9 term productivity, and then any irreversible commitment  
10 of resources that would be involved.

11                   The NOAA amendment process basically  
12 entails first taking a preliminary look at the state's  
13 proposed changes to their coastal management program.  
14 The preliminary determination is for purposes of  
15 determining whether to prepare an EA or an EIS, and  
16 also to (indiscernible, away from microphone) the  
17 funding under the federal program.

18                   We've issued a notice to conduct an EIS  
19 and gave notice of these meetings here, which are to  
20 solicit public input. We'll be issuing a draft  
21 environmental impact statement with a comment period  
22 and hold new additional public hearings. And then  
23 finally we will address comments and issue the final  
24 environmental impact statement for 30 days and then  
25 make a decision on the approval and issue a record of



1 decision.

2                   The Alaska program amendment basically  
3 consists of two statutory changes and three regulatory  
4 changes, which are fully -- more fully described on the  
5 state's web page, the address of which I'll have up at  
6 the end.

7                   Scoping under NEPA, basically it's an  
8 opportunity for the interested public to give us their  
9 comments at the very beginning of the review process,  
10 to let us know what sort of potential impacts they're  
11 concerned about, and also suggested alternatives to the  
12 proposed action. The basic two alternatives that we're  
13 looking at is either to approve the amendments or to  
14 not approve the amendment.

15                  And finally the outline of the EIS.  
16 It's basically going to be an executive summary,  
17 including discussion of the public scoping and the  
18 public involvement process, a purpose and needs  
19 statement, description of alternatives, description of  
20 the program change, description of the affected  
21 environment, physical and socio-economic. The impacts  
22 of the alternatives will then be discussed, and then  
23 finally have a list of the agencies and persons  
24 consulted in an index and appendices.

25                  The schedule we have for this process

1 is this week we're conducting scoping meetings. We  
2 just had one in Barrow on Monday. We're here today and  
3 then tomorrow we're in Juneau.

4 August 5th is the close of deadlines  
5 for comments. We will be accepting and we encourage  
6 written comments as well. And I will be putting up the  
7 mailing address and email address that you can send  
8 written comments in to.

9 August 26th we will be issuing the  
10 draft environmental impact statement for a 45-day  
11 comment period. In September we will be holding public  
12 hearings on the draft environmental impact statement,  
13 and that -- the 45-day comment period will end on  
14 October 10th.

15 November 18th we'll be issuing the  
16 final environmental impact statement for 30 days, and  
17 then on December 19th adopting the environmental impact  
18 statement, and December 28th issue the record of  
19 decision and the program amendment decision.

20 Our point of contact is Helen Bass.  
21 She unfortunately couldn't make it here today, although  
22 she did want to be here.

23 And our mailing address, we'll go ahead  
24 and leave this up with our mailing address, an email  
25 address where you can send written comments to either

1 one of those, and then finally the web site for the  
2 Alaska program change documents.  
3 I think we'll go ahead and get started  
4 with our first speaker.  
5 MS. OKASAKI: Judy Brady.  
6 MR. SMITH: Okay.  
7 UNIDENTIFIED VOICE: Could I ask a  
8 quick question?  
9 MR. SMITH: Sure.  
10 UNIDENTIFIED VOICE: This is the  
11 format, you want us to come to a microphone and stand  
12 up?  
13 MR. SMITH: Well, whatever you feel  
14 comfortable with. I think.....  
15 UNIDENTIFIED VOICE: Some folks have  
16 notes and it's easier to sit and talk than it is.....  
17 MR. SMITH: Okay. Well, we can do  
18 that. I guess -- will you hear a microphone.....  
19 REPORTER: (Indiscernible, away from  
20 microphone)  
21 MR. SMITH: .....(indiscernible)?  
22 REPORTER: Yeah, if they want to sit,  
23 you can probably move them up to the front table.  
24 MR. SMITH: Okay. Good. Come right up  
25 there.

1 MS. OKASAKI: Also then if people are  
2 throwing things at you, you can duck. You can see it  
3 coming.

4 MS. BRADY: Is this mike on? Yes.  
5 Good morning. My name is Judy Brady and I'm the  
6 Executive Director of the Alaska Oil and Gas  
7 Association. AOGA is leased to have this opportunity  
8 to provide comments to the Office of Ocean and Coastal  
9 Resource Management on the scope of the ACMP amendments  
10 environmental impact statement. AOGA is a private,  
11 nonprofit trade association whose 18 member companies  
12 account for the majority of oil and gas exploration,  
13 development, production, transportation, refining and  
14 marketing activities in Alaska.

15 AOGA supports the state of Alaska's  
16 analysis, most recently contained in its June 2nd, 2005  
17 amendment submittal to OCRM, that the ACMP amendments  
18 comply with the requirements of the Coastal Zone  
19 Management Act and its implementing regulations.

20 When the Alaska Coastal Management Act  
21 was passed by the legislature in 1977, the same year by  
22 the way the Clean Water Act was passed by Congress, the  
23 comprehensive body of federal and state environmental  
24 laws and regulations was still being developed and were  
25 not fully in place. Title 29 planning and zoning



1 ordinances and the regulations of a number of Alaska  
2 local governments were also in their infancy at that  
3 time. Today, the federal and state statutory and  
4 regulatory framework addresses many of the  
5 environmental and development concerns the ACMP was  
6 originally intended to address. One of the catalysts  
7 for passage of H.B. 191 and the other ACMP amendments  
8 was the fact that the ACMP had been overtaken by other  
9 federal, state and local regulatory authorities. The  
10 overlap between the ACMP and other regulatory  
11 authorities is the most significant fact for OCRM to  
12 consider as it conducts its analysis of the  
13 environmental impacts of the ACMP amendments.

14           The level of environmental protection  
15 of coastal resources has not changed as a result of the  
16 ACMP amendments. Rather, duplication, complexity and  
17 uncertainty have been removed from the ACMP. And in  
18 fact some of this duplication and uncertainty  
19 threatened the program itself. The focus has changed  
20 to ensure that matters of local concern, not otherwise  
21 addressed by the larger body of federal and state laws,  
22 drive the development-specific coastal resource  
23 protection measures and requirements for development  
24 projects. The resulting permitting efficiency and  
25 clarity fully comport with the CZMA mandates and

1 regulations to make coastal management work in unison  
2 with state and local programs. In our written comments  
3 we will include a list of laws of laws and regulations  
4 that may apply to development projects in Alaska that  
5 demonstrate the above comments on the comprehensive  
6 Alaska regulatory framework. OCRM should carefully  
7 analyze that list in considering the environmental  
8 implications of the ACMP reforms.

9 Today, a major resource development  
10 project located in the coastal zone may require on the  
11 order of three dozen permits and authorizations from  
12 federal, state and local government agencies. Layered  
13 on top of all of these permits are the often  
14 duplicative provisions of the ACMP, which mandates that  
15 certain of these federal and state permits, excluding  
16 now ADEC under the reforms, cannot be issued until they  
17 are found consistent with the standards of the ACMP and  
18 applicable coastal district enforceable policies.  
19 These standards and policies often triggered an  
20 unnecessary second look at issues already regulated  
21 under other federal and state law and regulations.  
22 H.B. 191 and its implementing regulations address this  
23 duplication and complexity by establishing bright lines  
24 for the scope and applicability of consistency reviews.

25 The ACMP is not a permitting program,

1 but over the years its administration and litigation  
2 risks have made it appear so. This concern was another  
3 reason for the passage of H.B. 191. Prior to the  
4 passage of H.B. 191, over the years the ACMP had become  
5 a cumbersome complex process that hindered timely  
6 issuance of permits. In order for the state agencies  
7 to carry out their duties under the ACMP, rather than  
8 being able to rely on regulations published under state  
9 law and with public comment, they had to rely on a  
10 series of more and more complex interagency memos that  
11 were not open to the public. The state standards  
12 duplicated federal and state law and many district  
13 policies duplicated the requirements of both state  
14 policies and certain federal and state regulatory  
15 programs. This overlap led to confusion and compliance  
16 complexity, particularly on the state side. The  
17 permitting schedule under ACMP has become the victim of  
18 the slowest permit.

19           AOGA supported H.B. 191 because it  
20 simplified the ACMP process. Most importantly, it  
21 recognized the significant evolution of environmental  
22 protection provided by federal and state regulatory  
23 programs since the inception of the ACMP. We all need  
24 to remind ourselves that ACMP does not stand alone. It  
25 is not the sole protection for coastal resources in